MST

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.381 OF 2006

Rajendra Eknath Kante — Petitioner
versus
R.G.Bansod and others — Respondents

N.V.Bandiwadekar for petitioner.

Mr.D.A.Patil, AGP for respondents 1 to 3.

CORAM : A.S.OKA, J.

DATE : 25th June 2007

PC :

1. Heard learned advocates for the parties. The breach alleged in this contempt petition is of direction issued by a Division Bench of this Court in writ petition filed by the petitioner. The relevant part of the order of the Division Bench reads thus :-

> "The petition therefore, is accordingly disposed of while directing the respondents no.1 and 2 to consider the case of the Petitioners for promotion on par with that of Shri Manohar K. Chavan whose case was dealt with by the Respondent No.2 under order dated 29th April, 1997, copy of which is placed on

> record at page 47 of the petition. The case of the Petitioners shall be considered within a period of six months from today. The rule is made absolute accordingly with no order as to costs."

2. On 18th December 2006, an order has been passed by the General Manager of the Dairy at Worli appointing the petitioner to the post of a Bottle Checker.

3. The submission of the learned advocate for the petitioner is that the Division Bench had directed the authorities to consider the case of the petitioner for promotion on par with the case of one Shri Manohar K. Chavan. The Industrial Court by judgment and order dated 5th March 1997 passed in a complaint filed by said Manohar K. Chavan directed the respondents in the complaint to consider case of said Shri Manohar Chavan for the promotion to the post of Milk Despatcher/ Bottle Checker/ RMRD Clerks etc. and to consider him as if he was in full time employment on 1st January 1991. The submission of the learned advocate for the petitioner is that by order dated 18th December 2006, the petitioner has been given a fresh appointment to the post of Bottle Checker whereas Shri Manohar K. Chavan, by order dated 29th September 1997, was granted promotion

to the post of Milk Despatcher. He invited my attention to the statements made in the affidavit of Chandrakant Shivaji Chougule filed on 28th June 2006. He submitted that the distinction sought to be made in the said affidavit between the said Manohar Chavan and the petitioner is factually incorrect.

4. The order dated 18th December 2006 issued by the General Manager is on the basis of the direction given by the Division Bench. The Division Bench directed the respondents in the writ petition to consider the case of the petitioner for promotion. Even accepting that the submission made by the learned advocate for the petitioner is correct, at the highest, it can be said that the order dated 18th December 2006 is not in accordance with law. It is very difficult to record a finding that there is any deliberate or willful breach of the order of the Division Bench on the part of concerned respondents. It is for the petitioners to challenge the order dated 18th December 2006 by filing appropriate proceedings.

5. Hence, no case of contempt is spelt out against the respondents. Contempt petition is

disposed of. It is made clear that this order will not preclude the petitioners from adopting appropriate proceedings against the order dated 18th December 2006. All contentions in that behalf are expressly kept open.

(A.S.OKA, J.)